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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the intersessional panel discussion on the role of local government in the promotion and protection of human rights

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 33/8. It provides a summary of the intersessional panel discussion on the role of local government in the promotion and protection of human rights, held on 4 September 2017.

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I. Introduction

1. The Human Rights Council, in its resolution 33/8, decided to convene between its thirty-fifth and thirty-sixth sessions a panel discussion on the role of local government in the promotion and protection of human rights, the objective of which was to identify ways in which local governments could promote, protect and fulfil human rights effectively, particularly in the context of implementing the 2030 Agenda for Sustainable Development, in close cooperation with national Governments. The Council requested the United Nations High Commissioner for Human Rights to liaise with States and all stakeholders, including relevant United Nations agencies, funds and programmes, the treaty bodies, the relevant special procedures of the Human Rights Council, national human rights institutions and civil society, with a view to ensuring their participation in the panel discussion.

2. In resolution 33/8, the Human Rights Council also requested the High Commissioner to prepare a report on the panel discussion in the form of a summary and to submit it to the Council at its thirty-eighth session. The present report was prepared pursuant to that request.

3. The Deputy High Commissioner opened the panel discussion, which was moderated by John Fisher, Director of the Human Rights Watch office in Geneva. The panellists were Katharina Pabel, member of the Human Rights Council Advisory Committee and Professor of Public Law at the University of Linz; An Hee-jung, Governor of South Chungcheong Province, Republic of Korea; Sara Sekkenes, adviser on conflict prevention and partnerships, Governance and Peacebuilding Group, United Nations Development Programme (UNDP); and Wanjiru Gikonyo, national coordinator and a founder of the Institute for Social Accountability.

II. Opening statement

4. In her opening statement, the Deputy High Commissioner said that the panel discussion was concerned with power, possibility, purpose and proximity in governance. It was a question of how the most local, proximate and immediate powers of government might humanize, rather than dehumanize, their inhabitants and their environment. It was a tale of this third, sometimes even fourth, tier of the government of a State, which was most directly accessible and thus potentially most accountable, to the people, and which had not yet been brought sufficiently to the centre stage of the human rights story.

5. The Deputy High Commissioner added that this concerned all individuals in their daily lives and the services, utilities, freedoms and spaces that were the tangible manifestations of human rights that had been set out in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. That affected how the State worked at the local level to ensure that schools, courts, hospitals, roads, police, community centres, garbage removal and water and sanitation systems were woven together to craft a habitat that enabled the population to go about their daily lives in dignity, hope and productive endeavour.

6. The Deputy High Commissioner stated that the right to contribute to governments at all levels was deeply embedded in the human rights storyline and manifestly essential to democracy at the local level. She stressed that civil society was not merely a partner for effective local administration; it operated so that people could come together to tackle shared problems, express common aspirations, pursue common interests and alert the authorities to issues ranging from new needs to long-standing problems. Civil society organizations were essential strategic and operational partners for local governments. They had a consultative role to assist in human rights planning and implementation. They also had a monitoring and assessment role concerning the way in which local governments were implementing human rights. They acted as capacity-builders that could help to strengthen the human rights expertise and awareness of local government officials and provided a regular, open channel of communication between local governments and inhabitants.

7. The Deputy High Commissioner noted that the role of local governments was strongly acknowledged in the 2030 Sustainable Development Agenda. Beyond the relevance of Sustainable Development Goal 11, which focused on making cities and human settlements inclusive, safe, resilient and sustainable, some other Goals were equally relevant. They included Goal 2 on ending hunger and achieving food security, Goal 3 on ensuring healthy lives, Goal 4 on inclusive and equitable quality education, Goal 6 on the availability and sustainable management of water and sanitation for all, Goal 8 on sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, and Goal 16 on providing access to justice for all and building effective, accountable and inclusive institutions at all levels. The fulfilment of those responsibilities required an overriding focus on inclusion and on leaving no one behind. The Deputy High Commissioner noted that this overriding goal had also been highlighted in the report of the Human Rights Council Advisory Committee on the role of local government in the promotion and protection of human rights (A/HRC/30/49), in which it had indicated that local governance must focus on non-discrimination, gender sensitivity, representation of minorities and active inclusion of those who were otherwise marginalized.

8. The Deputy High Commissioner noted that today, more people lived in cities than in rural areas and that urbanization was expanding at an unprecedented rate. She observed that rapid urbanization had often led to greater disparities, deeper inequality and more discrimination. However, she added that it was not too late to turn the corner, to open up new spaces and establish new infrastructures to truly humanize the environment for all. She added that there was no village, city or slum without people and there were no people without human rights that must be protected, respected and upheld.

III. Statements by the panellists

9. The panel moderator, Mr. Fisher, observed that all levels of government had a responsibility for human rights and that local government as the level of government closest to the people could have a real and meaningful impact on people's lives each and every day, and indeed often the greatest impact. He noted that services relating to health, housing, and water and sanitation were examples of economic, social and cultural rights implemented by local government. He added that local government also implemented civil and political rights by providing access to justice, facilitating the organization of peaceful protests, promoting and enforcing non-discrimination policies and undertaking gender mainstreaming. He noted that there was a very human story associated with local government as people were, to a considerable degree, a product of the communities where they had grown up and which had shaped their perceptions.

10. Ms. Pabel noted that the report of the Human Rights Council Advisory Committee contained a number of useful elements. It included a definition of local government and its role in the promotion and protection of human rights and a legal analysis of the human rights obligations of the authorities at the local level. She observed that work at the local level was rarely perceived as the implementation of human rights, either by the local authorities or by the public. As a result, human rights remained distant in most policies and practices at the local level, whereas they did actually concern human rights in practice.

11. She noted that the report explained the concept of a "human rights city", a globally developed initiative aimed at localizing human rights. That concept was a promising approach to developing human rights governance in the local context, where local government, local parliaments, civil society, the private sector and other stakeholders cooperated to improve the quality of life for all people in a spirit of partnership based on human rights standards and norms.

12. Ms. Pabel recalled four recommendations contained in the report: (a) civil society should be actively involved in planning and implementation of human rights at the local level; (b) the relevant United Nations mechanisms should be encouraged to engage in a dialogue with local governments when monitoring domestic implementation of international human rights commitments and local authorities should be involved in the universal periodic review; (c) developments at the international level, such as new

recommendations, guidelines and best practices, should be brought to the local level; and (d) there was a need to develop guiding principles for local governments and human rights.

13. She further noted that local authorities were close to the everyday needs of individuals and took decisions, in particular relating to education, housing, health, the environment, water, and law and order, which were directly connected with the effective implementation of human rights. A clear link to the goals of the 2030 Agenda for Sustainable Development could be established. Decisions at the local level could enforce or weaken the possibility for individuals to enjoy their human rights and particular attention must be given to the promotion and protection of vulnerable and disadvantaged groups.

14. Ms. Pabel concluded by highlighting the importance of having a proper legal framework and adequate financial resources to ensure effective local governance and adequate implementation of human rights. Furthermore, strengthening democratic participation at the local level should go hand in hand with the promotion and protection of human rights.

15. Mr. An began his statement by observing that local governments were the frontline duty-bearers and agents of change in upholding human rights because local government was the closest and most accessible tier of public administration within the State. He noted that many human rights were embedded in the Sustainable Development Goals. He then shared his experiences as Governor of South Chungcheong Province. Progress had been made in implementing human rights in the province, an urban-rural region with a population of over 2.1 million people. The province had enacted its own human rights ordinance in 2012. That was followed by the establishment of a human rights commission in 2013, a human rights declaration in 2014, the creation of a human rights centre in 2016 and a "2030 vision for gender equality" in 2017. He noted that the human rights promotion team of the local authority dealt with a wide range of human rights issues and the human rights watch group of 150 members, nominated through a public application process, had actively engaged in workshops on human rights awareness, identified neglected areas of human rights and shared good practices in the province.

16. In terms of challenges, Mr. An said it was important to resolve disparities between urban areas and rural communities, particularly as rural communities had less good access than urban areas to the public services essential to their enjoyment of human rights, such as housing, education and culture. He added that rural communities and farmers faced many challenges. Since taking office, he had adopted the three agri-innovations initiative to assist farmers, rural villages and agriculture in local development, which shared many of the goals of the 2030 Agenda for Sustainable Development.

17. Mr. An said he had also tried to create an enabling environment for local human rights governance. He stressed that the solution to accomplishing this was building trust between local government and its citizens through their free and genuine participation. To that end, the province had sought to use various channels to better communicate and cooperate with its citizens and civil society. Furthermore, he said that multilevel governance strengthened through decentralization was critical for the localization of the Sustainable Development Goals, based on human rights and democracy, and added that the local self-governing system in the Republic of Korea could be improved to allow for more autonomy.

18. Mr. An argued that it was important for local governments to be connected with the United Nations human rights system. He said local governments had not been given adequate space to participate effectively in the universal periodic review and the work of the human rights treaty bodies. He added that the role of local governments seemed to have been significantly limited in the voluntary national reviews of the implementation of the Sustainable Development Goals. He expressed the hope that the relevant international standards would be further developed, so that they would be a useful instrument for local governments in devising concrete strategies for the promotion and protection of human rights.

19. Ms. Sekkenes stated that for human rights to be fulfilled and development to be successful and equitable, it must be locally owned. Localization meant that the design, implementation and monitoring of the Sustainable Development Goals reflected the priorities of the local people. She noted that the central message of the 2030 Agenda for

Sustainable Development was that development could only be sustainable if it included everyone and left no one behind. Success would depend, to a large extent, on local action, community participation and local leadership. Participation was very important and local government should engage with all stakeholders, including civil society, traditional leaders, religious organizations, academics, the private sector, human rights defenders and the local offices of national human rights institutions, where they existed. Efforts should be made to reach women and youth as well as the poorest and most marginalized groups.

20. Ms. Sekkenes explained that there should be interaction and exchange of knowledge between local authorities, as well as with partners at the local level and at different levels of government. She advocated for a model of decentralized cooperation that would build on the mutual exchange of expertise between local authorities and local development actors. Local governments had a role to play in harmonizing local interests and creating a common development perspective, with a view to prioritizing expenditure at the local level. Human rights, such as access to information and the right to be heard, and rule of law principles, such as legality and accountability, needed to be integral in the delivery of public services.

21. Ms. Sekkenes said that UNDP was collaborating with the Global Taskforce of Local and Regional Governments and the United Nations Human Settlements Programme (UN-Habitat) on an online repository of tools and guidance for cross-learning between local and regional governments (localizingthesdgs.org). UNDP was providing support to over 35 countries in that context. Stressing that there was no one-size-fits-all approach, she mentioned several examples of cooperation. In Ecuador, UNDP was working with national and subnational governments and with the Association of Ecuadorian Municipalities to integrate the Sustainable Development Goals into national and subnational plans and ensure the monitoring and review of their implementation. In Brazil, UNDP had partnered with the National Confederation of Municipalities to strengthen the role of local governments in the localization of the Sustainable Development Goals. The joint initiative sought to raise awareness, integrate the Sustainable Development Goals into local plans and build up monitoring and accountability systems. In Morocco, UNDP had worked with local governments to establish *maisons de développement*, which focused on promoting exchanges and developing partnerships between all development actors, and providing them with a physical space to coordinate and harmonize development efforts. In fragile contexts such as the Syrian Arab Republic and Yemen, UNDP supported cooperation with others to strengthen service capacity at the local level to maintain access to public goods and services.

22. Ms. Gikonyo stated that the African Charter for Popular Participation in Development and Transformation (1990) was the first concerted commitment by African States to promote public participation. The Charter affirmed that nations could not be built without the popular and full participation of the people and that participation empowered people to involve themselves effectively in governance. Obstacles to effective public participation included a lack of political will due to non-democratic systems and, in some cases, in incipient democracies, a lack of institutional capacity, of effective cooperation between national and subnational levels of government, and of information about human rights obligations; a failure to recognize the role of civil society organizations; and the absence of explicit human rights obligations in national governance frameworks. She indicated that Kenya had adopted a progressive constitution in 2010, which contained an extensive bill of rights. Devolution was embedded in the Constitution and public participation was enshrined as a national value and constitutionally required in policy development. The Constitution entrenched gender equality, economic inclusivity and equity. The National Gender and Equality Commission, the Kenya Human Rights Commission and the Office of the Ombudsman were also constitutionally protected. She added that Kenya had mainstreamed the 2030 Sustainable Development Agenda in its national planning framework.

23. Ms. Gikonyo noted that local governments offered the opportunity for bottom-up transformation, although acknowledging that central Governments could be intransigent at times. She stressed that national politics still played into local government action through national policy decisions. Nevertheless, the hegemony of national political parties was checked by the creation of local government centres of power.

24. Ms. Gikonyo identified several lessons with respect to public participation and human rights. Democratization of institutions was one of the strongest indicators of political will, as well as separation of powers, horizontal accountability and protection of public servants from executive interference in administrative processes. Democratization of information was also key because access to information was an enabling right for public participation. The conceptualization of public participation into minimalist administrative requirements, as opposed to dynamic participatory processes in local governance, was one of the biggest challenges. She said that there was a need for models of service delivery rooted in partnerships with local communities and supported by principles of transparency, oversight by the public and revenue-sharing with local communities. She added that the community-centred service delivery model challenged the private sector model that many Governments used.

25. With respect to Sustainable Development Goal 6 on ensuring the availability and sustainable management of water and sanitation for all, Ms. Gikonyo said that this was a problem in Kenya, many residents were not connected to a waste management system and that more public participation was needed. Concerning Goal 8 on promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, she noted that the informal sector represented 82.7 per cent of employment in Kenya. She also noted that although public policy broadly reflected that reality, efforts to promote integration into the formal economy and support the sector had largely not succeeded. Even though the informal sector continued to grow, it had not received the support that it needed. City planning processes had marginalized informal trade and informal traders continued to be harassed. She added that redistributive policies were tokenistic. State capture and the resultant corruption remained the biggest barriers to the implementation of the progressive laws that had been adopted.

26. Concerning civil society, Ms. Gikonyo said that in Africa, it had been called upon to play a dual role of fostering transition politics while helping to consolidate democratic gains. However, the space for civil society to act in had been shrinking around the world, including in Africa and in Kenya in particular. She said that there was a need to increase support for civil society so that it could engage on issues of local governance and advocate against the capture of local institutions and the resultant manifestations.

IV. Summary of the discussion

27. During the discussion, contributions were made by representatives of Brazil, Chile, Egypt, Georgia, Indonesia, Iraq, Israel, Madagascar, the Republic of Korea (on behalf of four member States) and Romania. The following non-governmental organizations (NGOs) also made contributions: United Cities and Local Governments and the International NGO Forum on Indonesian Development.

A. General observations

28. Many speakers noted that local government was the level of government closest to the people, the most visible and most accessible. It was further noted that this proximity of local government was not only physical but also ethnic and cultural in some cases. A number of speakers remarked that because local government was most frequently responsible for a range of basic and essential services for communities, such as education, health care, housing, water and sanitation, they were inextricably involved in the fulfilment of people's human rights. It was pointed out that the role of local government was not limited to economic, social and cultural rights, but also included civil and political rights. An example given was the obligation to facilitate the right to peaceful assembly. It was noted that local government has an obligation to secure equality and justice for everyone at the local level and in particular to protect the human rights of women and specific groups, such as children, minorities, persons with disabilities, migrants, refugees and the poor and marginalized.

29. It was stressed that the proximity of local government to the people was an asset. It could be used to facilitate a continuous dialogue with individuals and groups concerning the protection and promotion of their human rights. One speaker said that local government

should support the involvement of citizens in decision-making and the management of political and financial affairs, and should try to identify people's needs.

30. One speaker observed that the extent of powers entrusted to local governments differed from one State to another. Another speaker noted that central Government provided resources to local governments to implement decisions adopted at the national level in areas such as health, education and security. Some speakers expressed the view that a measure of autonomy was important for local governments to implement human rights effectively. One speaker emphasized that it was important to have a legal framework that set out the role, responsibilities and prerogatives of local governments and the nature of their relations with the central Government.

B. Integrating human rights into local government

31. A number of speakers indicated that for local governments to be effective in promoting, protecting and fulfilling human rights, they needed to be democratic, transparent, accountable and have a high degree of integrity. According to one speaker, effectiveness depended on recognizing that citizens were the most important asset of a local government and that they were the most honest and trustworthy allies of local government institutions because of their interest in the well-being of the community. A number of speakers stressed that local governments needed to build partnerships with a wide range of civil society actors in order to integrate human rights effectively into their public services, and for the delivery of public services to be monitored and assessed. One speaker indicated that strong leadership and commitment at the central and subnational levels was required to make human rights more specific and practicable for local needs.

32. A number of speakers emphasized the importance of capacity-building and the training of public servants in local government on both national human rights law and international human rights instruments. Several speakers indicated that they had already implemented human rights training of public servants at the local level and one speaker noted that the State had a programme of technical cooperation with the Office of the United Nations High Commissioner for Human Rights to provide such training.

33. Another speaker remarked that government efforts to integrate human rights into implementation efforts was facilitated by the establishment of a national human rights institution and that efforts to democratize human rights at the local level had been concentrated on awareness-raising and training, in cooperation with civil society. In addition to measures aimed at raising awareness of human rights and providing training for local government officials, the speaker referred to specific measures that had been taken with respect to various stakeholders, including human rights education efforts directed at traditional leaders, religious leaders and teachers, with a view to ending harmful practices incompatible with human rights and positive measures that would promote the protection of human rights. As the representative of a developing country, the speaker noted that there were a number of challenges facing local governments in promoting and protecting human rights, including a lack of infrastructure throughout the territory of the State, a lack of material and financial resources, and the need for capacity-building for local government officials, in particular law enforcement officials, magistrates and social workers, and for those working for civil society organizations.

34. One speaker underlined the importance of adopting administrative measures to translate issues of human rights protection into concrete measures to be taken, or standards to be obeyed, as guidance to local governments, and added that sharing of best practices by different local governments was an essential measure to promote and protect human rights.

35. A number of speakers indicated that their States had already integrated human rights issues into the national plans of action on human rights. One speaker noted that the State action plan envisaged cooperation with local governments to increase access to minorities, provide information to minorities in their native languages, provide better educational opportunities for minorities and promote cultural diversity.

36. One speaker noted that a federation of local authorities served as an effective link between local governments and various ministries of the central Government and that the

federation provided advice to the central government ministries on a range of issues, such as housing, water, education, safety (including from natural disasters) and various types of planning.

37. One representative of an NGO referred to several cities and districts that had already adopted local regulations on "human rights cities" and others that were in the process of adopting such a framework. In that context, the speaker stressed the importance of full cooperation between NGOs, local government, the national human rights institution and the central Government, including the competent ministries.

C. Role of local governments in implementing the 2030 Sustainable Development Agenda and the New Urban Agenda

38. A number of speakers noted the role that local governments had in implementing the Sustainable Development Goals and their link to human rights. One remarked that the 2030 Sustainable Development Agenda was people-centred and human rights-based and added that implementation of human rights by local governments had to be based on a strong awareness of the needs of rights holders. One State representative said that the State in question had endorsed the 2030 Sustainable Development Agenda, that there should be an equitable sharing of resources among all of its citizens and that a balance should be sought that would benefit all individuals and groups. Another speaker stated that local governments had a particularly important role to play in implementing the pledge in the 2020 Sustainable Development Agenda of leaving no one behind. It was notable that the Sustainable Development Goals provided commitments to the needs of the most vulnerable. The speaker added that local governments had an important role in trying to facilitate the integration of refugees into their new community and that it would be useful to learn about best practices from other States concerning the implementation of human rights at the local level.

39. One speaker noted that the participation of subnational and local governments was important to the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) and its preparatory process. The speaker noted that local governments had been given a role in the implementation of the New Urban Agenda (A/CONF.226/4, annex), which had been adopted at Habitat III. The speaker indicated that Human Rights Council resolution 35/24, entitled "Human rights in cities and other settlements", had been inspired by the New Urban Agenda and its vision of cities for all. In that resolution, the Council had also noted the efforts of some national and local governments to enshrine this vision, referred to as "right to the city", in their legislation, political declarations and charters. The speaker indicated that the urban development policy of the State in question was carried out by municipalities and was designed to ensure comprehensive social functions for the city and the well-being of its inhabitants.

V. Conclusions

40. **In their concluding remarks, the panellists stated that it was important for local governments to have a better understanding of human rights so that they could be better integrated into the delivery of public services. That could be done by providing local officials with human rights training and education. Sharing best practices among local governments, both nationally and internationally, would be useful. Another possible approach was to use the human rights cities model, which included a range of desired human rights outcomes.**

41. **The panellists stressed that in order to ensure effective local governance and effective implementation of human rights, it was important for local governments to have a proper legal framework and adequate financial resources. They stressed that local governments needed to provide public services at an adequate level to the population on a non-discriminatory basis, based on the human rights obligations of the State. Local governments should ensure in particular that public services were provided to the most marginalized and that the goal of leaving no one behind was achieved.**

42. **The panellists emphasized that the protection and fulfilment of human rights required cooperation with NGOs and other stakeholders on an inclusive basis. NGOs and other stakeholders should be consulted on the planning and implementation of human rights at the local level and on the monitoring and assessment of the effectiveness of local government programmes. That could possibly include the development of indicators to measure the degree of implementation of specific human rights.**

43. **To encourage local ownership, it was important to have democratic institutions and decision-making at the level of local government. Transparency and accountability for decisions taken by local governments were highlighted. One of the panellists mentioned that in his region, information on all public expenditures was publicly available, as was the nature of the expenditures, which were made available to the public in detail and posted on the Internet. That was important for maintaining trust with the population. It was emphasized that efforts should be made to prevent corruption and mechanisms should be in place to deal with it when it occurred.**

44. **The panellists also stressed the need for coherence and cooperation between local government, the central Government and other levels of government. Government departments had a tendency to work in silos and it was important to have an integrated approach so that human rights could be mainstreamed across departments at the local level, as well as at other levels of government. It was important to have a continuous and free flow of information about human rights and new human rights developments between the central Government and local governments, particularly as that information was often concentrated at the level of the central Government. The panellists added that there also needed to be more coherence and coordination at the international level, including between United Nations departments, offices and programmes, in their approach to assisting local governments to implement human rights and the 2030 Sustainable Development Agenda.**

45. **The panellists noted that there remained a number of challenges to the promotion and protection of human rights in some States. For example, restrictions on the activities of NGOs in some States had created serious obstacles to their ability to be heard on policy development and decision-making at the local level. Those undue restrictions had included prohibiting registration, forbidding foreign funding or denying permits for particular activities for NGOs. More generally, restrictions on the right to freedom of expression, freedom of peaceful assembly and freedom of association had seriously limited the participatory rights of NGOs and other stakeholders, and denied local government important sources of information concerning ineffective or discriminatory delivery of public services, corruption and other human rights violations. In fragile States marked by violence and degraded institutions, local governments faced serious obstacles to delivering basic public services.**

46. **In terms of how the Human Rights Council could stay engaged with local governments, the panellists said that the development of guiding principles on local government and human rights could be a potentially useful tool. It was suggested that local governments should have a more specific role in the universal periodic review process. It was also noted that a number of the special procedures mandate holders of the Human Rights Council had addressed human rights that were implemented by local governments and that there should be more engagement between the relevant mandate holders and local governments. The Human Rights Council Advisory Committee could also assist in following up on the recommendations set out in its report on the role of local government in the promotion and protection of human rights (A/HRC/30/49).**